

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Jaquelyn Annette Martino, et al.
	:	
For	:	ADAPTABLE REMOTE CONTROL WITH EXCHANGEABLE CONTROLS
	:	
Serial No.:	:	09/739,512
	:	
Filed	:	December 18, 2000
	:	
Art Unit	:	2677
	:	
Examiner	:	Kimnhung T. Nguyen
	:	
Att. Docket	:	US000363
	:	
Confirmation No.	:	3118

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following remarks are directed to the new points of argument raised in the Examiner's Answer mailed April 13, 2007.

I. CHANGE IN REJECTION OF CLAIMS

Appellant respectfully submits that the Examiner has impermissibly changed the rejection of the claims in the Examiner's Answer. In particular, the Examiner alters the treatment of claims 5-7, 9-11 and 25-27 in the Examiner's Answer. Claims 5-7, 9-11 and 25-27 are not treated in the Examiner's Answer as they were treated in the final Office Action dated September 14, 2006. For at least the foregoing reasons, Appellants respectfully request that the Board remand the Appeal to

the Examiner for the Examiner to issue a new Office Action properly indicating the Examiner's revised treatment of claims 5-7, 9-11 and 25-27.

The alteration of the treatment to claims 5-7, 9-11 and 25-27 in the Examiner's Answer renders incorrect the Appellant's indication of the status of the claims in section 3 of the Appeal Brief filed December 27, 2006. The altered treatment of claims 5-7, 9-11 and 25-27 in the Examiner's Answer mailed April 13, 2007, also renders incorrect the statement in section 3 on page 2 of the Examiner's Answer that the statement of the status of claims contained in Appellant's brief is correct. That statement in the Examiner's Answer is not correct by virtue of the treatment of claims 5-7, 9-11 and 25-27 in the Examiner's Answer. Assuming the Board opts to hear this appeal at this procedural stage, Appellants respectfully request that the Appeal Board revise the status of the claims indicated in section 3 of Appellant's Appeal Brief of December 27, 2006, as follows.

This is an Appeal from the Examiner's Answer dated April 13, 2007, rejecting claims 1, 4 and 27. Claims 12-19 have been withdrawn. The claims being appealed are 1-11 and 20-28 of which only claims 1, 4 and 27 are rejected. No other claims are pending.

The altered treatment of claims 5-7, 9-11 and 25-27 in the Examiner's Answer mailed April 13, 2007, also renders incorrect Appellant's statement of the grounds of rejection to be reviewed on Appeal in section 6 of the Appeal Brief filed December 27, 2006. The altered treatment of claims 5-7, 9-11 and 25-27 in the Examiner's Answer mailed April 13, 2007 also renders incorrect the statement in section 6 on page 2 of the Examiner's Answer that the Appellant's statement of the grounds of rejection to be reviewed on Appeal is correct. That statement in the Examiner's Answer is inconsistent with the treatment of claims 5-7, 9-11 and 25-27 in the Examiner's Answer.

In the event the Board opts to rule on this Appeal at the current procedural state, Appellant respectfully request that the Board alter the grounds of rejection to be reviewed on Appeal stated in section 6 of Appellant's Appeal Brief filed December 27, 2006, to read as follows.

The following grounds of rejection are presented for review:

A. Claims 1 and 4 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,262,711 to Cohen et al.

II. CHANGE IN EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE

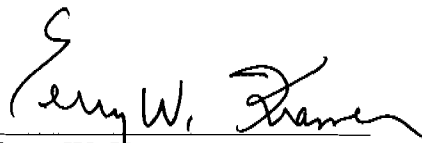
Appellant also notes that, in section 6 on pages 4-5, the Examiner's Answer mailed April 13, 2007, alters the Examiner's statement of reasons from allowance as compared to the Examiner's statement of reasons for allowance contained in section 6 on pages 4-5 of the Office Action mailed September 14, 2006. In order that the Appellant may be afforded the opportunity to properly submit comments on the Examiner's statement of reasons for allowance, Appellant respectfully requests that the Appeal be remanded to the Examiner for issuance of a new Office Action that not only properly alters the treatment of claims 5-7, 9-11 and 25-27 as the Examiner attempts to accomplish in the Examiner's Answer, but also follows the proper procedure for the Examiner's statement of reasons for allowance.

III. RESPONSE TO APPELLANT'S ARGUMENTS

In section (10) entitled "Response to Argument," the Examiner's Answer puts forth several new arguments in response to Appellant's Appeal Brief. Appellant notes that the Examiner's Answer does not respond to one or more arguments contained in Appellant's Brief. On this basis alone the rejections should be overturned.

It is respectfully submitted that the remaining points of argument set forth in the Examiner's Answer are repetitive, and thus were fully addressed in Appellant's Appeal Brief. For the reasons set forth herein and in the Appeal Brief, it is respectfully requested that the rejections of the claims under 35 U.S.C. §102(e) be reversed.

Respectfully submitted,
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